

REMARKS

The Applicant respectfully requests reconsideration of the pending claims of the instant application in view of the following remarks. Currently, claims 1-22 are pending. Claim 19 has been amended for editorial purposes. Claims 1 and 2 have been rejected under 35 U.S.C. §103 (a) and claims 3-22 have been objected to as being dependent from a rejected base claim.

Claims 1 has been rejected under 35 U.S.C. §103 (a) as being unpatentable over U.S. Patent No. 5,149,949 to Wike. Claim 1 recites an optical scanner for reading an optical code having a two-dimensional pattern of different light reflectivity. The scanner includes a light source for producing a light beam and a raster scanning assembly for receiving the light beam and producing an outgoing light beam having a two-dimensional scanning pattern. The raster scanning assembly includes optical element shaped and positioned so that the two-dimensional scanning pattern produces at least on region of apparent greater brightness on the indicia. The region of apparent brightness has a shape and orientation suitable for assisting in alignment of two-dimensional scanning pattern of the outgoing light beam with the two-dimensional pattern of the optical code.

Wike neither teaches nor suggests the optical scanner of claim 1. For example, Wike neither teaches nor suggests an optical scanner having a raster scanning assembly including an optical element shaped and positioned so that the two-dimensional scanning pattern produces at least on region of apparent greater brightness on the indicia. The Examiner contends that the scan pattern of Figure 2 shows a pattern comprising brighter areas and less bright areas. Applicant respectfully disagrees with the Examiner's contention. Column 3, beginning with line 67, Wike describes the generation of the scanning pattern of Figure 2. In this section, Wike states that, "the light beams reflected by the deflector portion 66 of the transceiver strike the interior surface of the rotation mirror members 62, deflecting the light beams in a downward direction along a plurality of light paths 67 (Fig. 4) to strike the mirror member 32. The mirror member 32 deflects the light beams towards the pattern forming mirror members 82 which in turn deflect the received light beams through the glass window 24 in the aperture 22 in the form of the scan pattern 84 (Fig. 2) through which a bar code label is passed adjacent the glass

window 24." Wike, therefore, does not teach an optical element shaped and positioned so that it produces at least one apparent brighter region at or near a point where a bar code is to be scanned.

Furthermore, turning to Figure 4, it can be seen that light exiting the laser diode member 70 is deflected 90° by the deflecting portion 66 to eight rotating mirrors 62 arranged in the octagonal shape about the drive shaft 40. The light beams are then deflected downward to mirror portion 32 which deflects the light beams upward again to mirror portions 82. Mirror portions 82 then deflect the beam out of the assembly for scanning optical codes. The mirrors, as seen from the drawings and as described, are flat mirrors. The reflected light beams follow linear paths and, therefore, are not directed into the path of an adjacent light beam. As such, Wike does not teach or suggest an optical element that produces at least one apparent brighter region in the scanning pattern.

It is believed that the scanning pattern of Figure 2 is a depiction of several patterns at different moments in time. Based on the description in Wike along with the Figures, Applicant believes that in a device according to Wike, it is physically impossible to have overlapping light beams in the scanning pattern. Therefore, Applicant submits that the Wike reference does not teach an optical scanner having a raster scanning assembly including an optical element shaped and positioned so that the two-dimensional scanning pattern produces at least one region of apparent greater brightness on the indicia.

The scan pattern of Wike is also not adaptable to provide an alignment of the pattern with a bar code symbol. As discussed in column 2, beginning with line 7, Wike states that the pattern created is rotated in a circular direction. By having a rotating scanning pattern, one cannot physically align a bar code with a scanning pattern irrespective if there is an overlap causing an apparent brighter region in the rotating scanning pattern.

Further, Wike neither teaches nor suggests a device that provides a scanning pattern having a region of apparent brightness having a shape and orientation suitable for assisting in alignment of two-dimensional scanning pattern of the outgoing light beam with the two-dimensional pattern of the optical code. In fact, the Wike reference actually teaches away from using any of the scanning pattern for alignment with the optical code.

In column 2, beginning with line 12, Wike states that the, "arrangement will generate a scan pattern comprising a large number of rectilinear lines producing a highly dense scan pattern which is rotated in a circular direction enabling the scan pattern to scan a bar code label irrespective of its orientation." (emphasis added). One of ordinary skill in the art would not look at the Wike's reference to develop a scanning pattern which includes areas of apparent brighter regions for use in aligning the bare code symbol during a scan. Wike's states that such an alignment is unnecessary since the bar code can be scanned irrespective of the orientation. As such, it is not obvious in view of Wike to have a scanning pattern having a region of apparent brightness having a shape and orientation suitable for assisting in alignment of two-dimensional scanning pattern of the outgoing light beam with the two-dimensional pattern of the optical code.

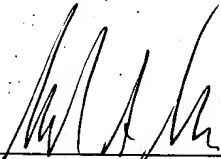
In view of the foregoing, claim 1 is patentable over the cited reference and is now in condition for allowance. Withdrawal of the rejection of claim 1 is respectfully requested.

Claims 2-22 depend from claim 1 and are patentably distinguished from the cited reference for reason stated with regard to claim 1 and for other reasons. If an independent claim is non-obvious, than any claim depending therefrom is nonobvious. MPEP 2143.3. As such, claims 2-22 are in condition for allowance and withdrawal of the rejection is respectfully requested.

In view of the foregoing, claims 1-22 are now in condition for allowance. A favorable response to this amendment in the form of a Notice of Allowance is hereby solicited.

Respectfully submitted,

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